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Permanent Forum on Indigenous Issues
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Item 7 of the provisional agenda*
Future work of the Permanent Forum, including issues of the Economic and Social Council and emerging issues

The extent to which climate change policies and projects adhere to the standards set forth in the United Nations Declaration on the Rights of Indigenous Peoples

Concept note submitted by the Permanent Forum Special Rapporteurs

1. Indigenous peoples, in various gatherings around the world, have expressed concern at being excluded from the development of national policies and programmes on climate change. They have also expressed their concern over the course of the international dialogue in the context of the United Nations Framework Convention on Climate Change[1] and at being denied the opportunity to participate in that dialogue. Cognizant of those concerns, the United Nations Permanent Forum on Indigenous Issues appointed, at its sixth session,[2] Victoria Tauli-Corpuz and Aqquluk Lynge as Special Rapporteurs to prepare a report on the impact of climate change mitigation measures on indigenous peoples and on their territories and lands, to be submitted to the Permanent Forum at its seventh session (E/C.19/2008/10).

2. Also at its sixth session, the Permanent Forum designated "Climate change, biocultural diversity and livelihoods: the stewardship role of indigenous peoples and new challenges" as the special theme of its seventh session.[3] At its seventh session, the Permanent Forum decided to appoint, without financial implications, Hassan Id Balkassm and Paimaneh Hasteh, members of the Permanent Forum, as Special Rapporteurs[4] to undertake a study to determine whether climate change policies and projects adhered to the standards in the United Nations Declaration on the Rights of

* E/C.19/2009/1.

[1] United Nations, *Treaty Series*, vol. 1771, No. 30822.

[2] See *Official Records of the Economic and Social Council, 2007, Supplement No. 23* (E/2007/43), para. 52.

[3] Ibid., chap. I, sect. A, draft decision III.

[4] Ibid., *2008, Supplement No. 23* (E/2008/43), para. 126.

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Indigenous Peoples.[5] The Permanent Forum also decided that the Human Rights Council expert mechanism on the rights of indigenous peoples and the Inter-Agency Support Group on Indigenous Issues should be invited to participate in the study. Further, the Permanent Forum requested Mr. Id Balkassm and Ms. Hasteh to provide the Permanent Forum with an outline of the study at its eighth session and a report thereon at its ninth session.

3. The Special Rapporteurs are of the view that, in accordance with their mandate, the report should include studies and information from all parties concerned with the status of indigenous peoples on the effects of climate change, which threatens their existence, their rights, Government policies and the extent to which those Governments recognize indigenous peoples and their rights and include indigenous peoples in the formulation of climate change policies. This would ensure that the study includes the most salient information on whether national climate change policies adhere to the standards contained in the United Nations Declaration on the Rights of Indigenous Peoples. The present preliminary note has been prepared in response to the request made by the Permanent Forum at its seventh session.

4. The Special Rapporteurs are of the view that the impact of climate change mitigation measures on indigenous peoples and on their territories and lands has highlighted the extent to which climate change threatens indigenous peoples, particularly since the participation of indigenous peoples in the formulation of climate change policies remains deficient.

5. The main principles contained in the United Nations Declaration on the Rights of Indigenous Peoples include:

(a) Equality of indigenous peoples in relation to all other peoples;

(b) Freedom from discrimination of any kind in the exercise of indigenous peoples' rights;

(c) Respect for and promotion of the rights of indigenous peoples, as affirmed in treaties and agreements;

(d) Respect for the free, prior and informed consent of indigenous peoples;

(e) Equal rights for indigenous peoples;

(f) Participation of indigenous peoples in all stages of decision-making (planning, decision and execution).

6. The following items will be elaborated on in the main report:

(a) Standards: rights contained in the United Nations Declaration on the Rights of Indigenous Peoples;

(b) Duties and obligations: standards contained in the United Nations Declaration on the Rights of Indigenous Peoples;

(c) Adherence of climate change policies to the standards set forth in the United Nations Declaration on the Rights of Indigenous Peoples.

[5] General Assembly resolution 61/295, annex.

7. Topics to be addressed by the study include the following:

(a) The binding or optional nature of the standards set forth in the United Nations Declaration on the Rights of Indigenous Peoples;

(b) The importance of respecting indigenous peoples' right to self-determination in the context of climate change policies;

(c) Rights relating to lands, natural resources and the role of indigenous peoples in dealing with climate change;

(d) The right to maintain and develop political, legal, economic and social institutions (articles 15-18 and 20 of the United Nations Declaration on the Rights of Indigenous Peoples);

(e) The right to participate in political life (article 5):

(i) The right to recognize treaties and agreements (article 37);

(ii) Respect for free, prior and informed consent (articles 10, 11 and 19);

(iii) The right to cultural identity (articles 9 and 11-16).

8. Consideration of some of the issues that need to be addressed is essential for the production of a comprehensive study on the extent to which the standards set forth in the United Nations Declaration on the Rights of Indigenous Peoples are being observed with respect to climate change. Yet, if the relevant parties were to consider it necessary, there would be no harm in also adding those contributions made in response to this preliminary note and those comments on each of the issues that concern the study marginally or even remotely. We welcome all suggestions and contributions and any recommendations that could enrich this preliminary paper and its themes and result in the production of a satisfactory study — one that will make it possible to gather together and adopt recommendations that serve mankind as it confronts the future in the lap of its mother, the Earth.

9. All responses, contributions and studies should be submitted preferably before the end of August 2009, in order to allow the Rapporteurs sufficient time to consider them and prepare the final report.